

VZCZCXRO3596

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DE RUEHOT #0828/01 1712019

ZNR UUUUU ZZH

P 192019Z JUN 08

FM AMEMBASSY OTTAWA

TO RUEHC/SECSTATE WASHDC PRIORITY 8060

INFO RUCNCCAN/ALL CANADIAN POSTS COLLECTIVE PRIORITY

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RUEKJCS/OSD WASHDC PRIORITY

UNCLAS SECTION 01 OF 02 OTTAWA 000828

SENSITIVE

SIPDIS

E.O. 12958: N/A

TAGS: PTER PGOV CA

SUBJECT: CONSERVATIVES AGAINST RETURN OF DETAINEE

**¶11.** (U) Summary: Conservative MPs on June 17 defended the government's refusal to press for the repatriation of Canadian citizen detainee Omar Khadr from Guantanamo Bay, emphasizing that he posed a risk, that prosecuting him in Canada was unlikely to result in a conviction, and that he would inevitably re-establish ties with his extremist family. Their arguments appeared in a minority dissenting appendix to a Commons Foreign Affairs Committee report which had advised the government to press the United States to agree to the repatriation of Khadr. End summary.

**¶12.** (U) The House of Commons Foreign Affairs and International Development Committee on June 17 reported the findings of a study by its Sub-committee on Human Rights on the detention and prosecution of Omar Khadr. The Sub-committee began the study in March and held six hearings, which included testimony from human rights groups and Khadr's Canadian and U.S. lawyers. The Sub-Committee and the main Committee split along party lines. Opposition MPs hold a majority on both Committees, and overruled the minority Conservatives, who objected to the study. Conservative members refused to endorse the Committee report and attached a dissenting report setting out one of the most detailed public explanations to-date of the government's position on Omar Khadr. Meanwhile, On June 18, the Senate passed a separate, non-binding motion that urged the government to negotiate Khadr's immediate repatriation and develop a plan for his rehabilitation.

Committee Calls for Return of Khadr

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**¶13.** (U) The main Committee report concluded that Omar Khadr should have been considered a "child involved in armed conflict," and afforded the special protection outlined in the relevant UN Conventions and Canadian policies on child soldiers. The non-binding report made numerous demands on the government: to call for the immediate termination of U.S. Military Commission proceedings against Khadr; to express its objection to the United States of the latter's claim to the right to detain him as an enemy combatant; to demand Khadr's repatriation to Canada; to consider the possibility of prosecuting him in Canada; and to develop appropriate security and rehabilitation measures to re-integrate Khadr into society, including placing any "judicially enforceable conditions" on his conduct.

Conservative Dissent

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**¶14.** (U) In their dissenting report, Conservative members accused opposition parties of downplaying Khadr's alleged crimes and pursuing a "one-dimensional" approach that portrayed Khadr as a "victim." They argued that it was hard to differentiate between the present government's position and that of the previous Liberal government, attributing the new-found interest of Liberal members in Khadr's well-being to "the potential for political gain."

Conservative MPs said the government had "serious concerns" about Khadr, that the risk he posed as an alleged terrorist was unknown, that trying him in Canada would pose serious and "unprecedented" issues, and that it was unlikely he would ever be convicted in Canada. They also noted that if he returned to Canada, Khadr would have "no recourse" other than to reestablish ties with his extremist family.

**¶15.** (U) Government members argued further that Canada should strike the right balance between individual rights and national security, Othe right balance between individual rights and national security, and fulfill its obligation to contribute to the international struggle against terrorism. They warned that the Khadr case could be perceived by other countries as a "litmus test" of Canada's commitment to impeding global terrorism. They also emphasized that witnesses had shown there was nothing in international law, U.S. law, or Canadian law, that barred the prosecution of a minor for war crimes, and stated that, of 1351 Canadians repatriated to Canada since 1978 under Transfer of Offenders Treaties, all had first been tried and convicted abroad.

Comment

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**¶16.** (SBU) Like the Senate resolution, the House Committee report and the Conservative dissenting report constitute non-binding advice to the government. The House Committee will most likely forward its report to the Commons floor for further debate in the fall sitting of Parliament. This, in turn, will probably result in a "sense of the House" non-binding resolution. End comment.

**¶17.** (U) The entire report is available on the Internet at:

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[http://cmte.parl.gc.ca/cmte/CommitteePublicat ion.aspx?](http://cmte.parl.gc.ca/cmte/CommitteePublicat ion.aspx?SourceId=244375)

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